

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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ROBERT KUNHART,

Plaintiff,

vs.

CHIEF JUDGE ROGER L. HUNT,

Defendant,

2:11-cv-236-PMP-RJJ

REPORT AND RECOMMENDATION
OF UNITED STATES
MAGISTRATE JUDGE

This matter is before the Court on a proposed Complaint of Judicial Misconduct or Disability (#1).

The court having reviewed the proposed Complaint (#1) makes the following findings:

1. Plaintiff files this complaint of judicial misconduct based on Rule 27. *See*, proposed Complaint (#1, at pg.1, lines 18-19).
2. The court can find no rule 27 that addresses judicial misconduct.
3. Plaintiff is challenging decisions made by the court in his criminal case. The intended result of this challenge is to vacated the conviction and sentence imposed on the plaintiff. Kunhart's action is barred by the U.S. Supreme Court decision in Heck v. Humphrey, 512 U.S. 477 (1994).

Based on the foregoing and good cause appearing therefore,

RECOMMENDATION

IT IS THE RECOMMENDATION of the undersigned Magistrate Judge that this case be **DISMISSED WITH PREJUDICE.**

NOTICE

Pursuant to Local Rule IB 3-2 [former LR 510-2] any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986). This Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991); Britt v. Simi Valley United Sch. Dist., 708 F.2d 452, 454 (9th Cir. 1983).

DATED this 3d day of March, 2011.



ROBERT J. JOHNSTON
United States Magistrate Judge